



THE NAVAJO NATION

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**Testimony from the Navajo Nation, Executive Director Navajo Nation Washington Office
Jackson Brossy for the House Appropriations Committee Subcommittee on Energy and Water
Testimony on May 3, 2017**

Hello my name is Jackson Brossy the Executive Director for the Navajo Nation Washington Office. I am here today to provide testimony to request funding for the U.S. Bureau of Reclamation (BOR) to support funding an economic transition in light of the pending Navajo Generating Station (NGS) closure in the amount of \$150 million, the BOR programs in the amount of \$97 million, the U.S. Army Corps of Engineers (USACE) water programs in the amount of \$4.5 million, and the USACE remediation mine funding in the amount of \$500,000 or an increased amount. The NN's federal funding request supports the national infrastructure initiative and promotes economic development within the NN, where the unemployment rate is approximately 42% of the population.

Navajo Generating Station

The NGS is a public private partnership coal-fired electrical generating station located on the NN. The NGS is owned by Salt River Project (SRP) (42.9%); the BOR (24.3%); Arizona Public Service Co. (14.0%); Nevada Energy (11.3%); and Tucson Electric Power (7.5%). The SRP is also the operator of the NGS. Congress, through the *Colorado River Basin Project Act of 1968*¹, authorized the Department of the Interior (DOI) to create electricity for the Central Arizona Project (CAP) using NGS. The use of NGS has allowed the federal government to operate and maintain CAP at a revenue neutral cost.² The sole NGS supplier of coal is Peabody Kayenta Coal Mine (Mine),³ located on NN and Hopi Tribe. Conversely, the Mine's sole customer is NGS. The NN leases land to the NGS owners and participants, which ends in 2019. In 2013, after years of negotiation, the NN approved a lease amendment extending the lease through the year 2044. Sometime in 2016, the NGS owners and participants began discussions to prematurely close

¹ P. L. 90-537.

² President FY 2017 Department of the Interior Bureau of Reclamation Budget Book.

³ The mine operates under a permanent program permit issued by the DOI Office of Surface Mining Reclamation & Enforcement's Western Region in 1990 pursuant to the *Surface Mining Control and Reclamation Act of 1977* (P. L. 95-87).

NGS. While the NN would like to see the NGS operate through 2044, as previously understood, in light of selective catalytic reduction (SCR) that need to be installed in 2030 at the NGS, the NN's current position is that it would like to see NGS remain open through at least 2029. There have been some small successes in keeping NGS open past this year such as: on February 13, 2017, the NGS owners voted on the future of NGS and the closure of NGS was delayed until December 2019 pending the development and execution of necessary documents.⁴ In addition, with new Administration, the NN has been working with federal stakeholders, NGS owners, effected Indian tribes, and Congress to delay the immediate closure of the NGS. There have been two stakeholder meetings organized by the DOI and one upcoming meeting.⁵ The meetings have allowed stakeholders to discuss the possibilities and realities of the NGS. The meetings have allowed stakeholders to discuss the possibility of NGS operating past 2019, and at the same time has allowed stakeholders to begin discussions on what economic development opportunities exist if NGS closes in 2019.

Community Economic Impact Losses. In 2018, there is expected to be approximately \$44 million in revenue from NGS. An Arizona State University study estimated that NGS would have a \$18B total impact to the NN (including jobs) from 2012-2044.⁶ The NGS directly provides more than 500 jobs, of which 90% belong to Navajo tribal members.⁷ The closure of the Mine, would result in an additional 400 direct jobs lost.⁸

Proposal for Funding an Economic Revitalization Package as a Result of the Premature

NGS Shutdown. In order to avoid the catastrophic economic impact to the NN and the surrounding

⁴ Lease negotiations between the NN and the operator are continuing to occur and final language should be completed by May 1, 2017 in order pass NN Council by July 1, 2017.

⁵ On March 1, 2017, the DOI BOR conducted a stakeholders meeting to find economical solutions to move forward. The DOI established taskforces to work on finding new owners, new customers, etc. The meeting also identified that in order to continue operations, new owners for NGS need to be established by September 1, 2107. On April 12th, 2017, several ideas for continued operations were discussed including coal subsidies, water rights transferred, building a rail line to export coal, potential of outside investors, subsidize labor for \$260 million, and subsidize power for customer's benefit. A future meeting has been set for May 16, 2017 in Arizona.

⁶ This assumes the plant operates at the same level. Navajo Generating Station & Kayenta Mine: *An Economic Impact Analysis For The Navajo Nation*. Evans, Anthony, Tim James, Melissa Gamez and Eva Madly L. William. *Seidman Research Institute, W. P. Carey School of Business, Arizona State University*. April 9, 2013.

⁷ Navajo Generating Station. <https://www.ngspower.com/howngshelps/community.aspx>. Accessed on Feb. 7, 2017.

⁸ Peabody Energy. <http://www.peabodyenergy.com/content/276/media-center/fact-sheets/kayenta-mine>. Accessed on Feb. 7, 2017.

community, the NN requests that Congress consider an economic development revitalization package. In addition to the economic development revitalization package transition, the stakeholders at the DOI meetings discussed the potential to build a railroad and support other infrastructure to support additional markets for Indian energy and economic development. The NN request Congress to consider funding a railroad routed from the Kayenta, AZ coal mine to Interstate-40 to provide options for the future of coal and other product exports.

Navajo Nation Water Infrastructure

Most NN residents raise livestock and farm on small form plots for their livelihood and survival. More than 15, 000 Navajo homes on the Navajo Reservation lack access to drinking water. With diverse funding, including federal funding, the NN continues to construct, maintain, and operate water systems. Some of the needed continual work includes drilling, rehabilitation, flood plain management, repair and maintenance of water wells, buying storage tanks, maintaining windmills, inserting waterlines, maintaining earthen dams, and providing irrigation. This work throughout the NN provides direct water service to NN residents. In addition, the NN seeks funding for abandoned mine remediation.

BOR Water programs. On March 30, 2009, the Secretary of the Interior was authorized to enter into the *New Mexico San Juan River Basin Water Rights Settlement Agreement* and the Navajo-Gallup Water Supply Project (NGWSP), was authorized for construction.⁹ The NGWSP is comprised of two laterals, the Cutter Lateral and the San Juan Lateral, which will convey treated San Juan River water to NN communities in New Mexico (NM) and Arizona (AZ); the southwest area of the Jicarilla Apache Nation, and the City of Gallup for domestic, commercial, municipal and light industrial purposes. The NN requests \$87 million in FY17 and requests that continue in FY18.

⁹*Northwestern New Mexico Rural Water Projects Act* (P.L. 111-11: 123 Stat. 1367).

In order to assist with the connection of the Project to existing local water systems, the NN has a \$990,000 agreement with BOR to complete Preliminary Engineering Reports along the San Juan Lateral. These connections are not part of the NGWSP and will need additional funding in future years when the costs are determined. With the expiration of the *Rural Water Act in 2016*, the vehicle to fund such connection projects is currently absent, the NN provided letters to the Commissioner and others to seek additional avenues to assist with funding of NN water delivery projects. The NN requests that the *Rural Water Act* be extended to continue much needed appraisal and feasibility studies or similar authority be established. The NN requests that \$5 million be allocated toward this purpose on an annual basis.

The NN requests \$5 million for BOR the Native American Affairs Office, which provides technical assistance for various projects. The NN is working to re-establish a contract with BOR to obtain future funding for small projects.

USACE Water programs. Section 205 of the *Flood Control Act of 1986*¹⁰ authorizes the USACE to assist local communities in reducing flood risk through the Small Flood Risk Management Project program. Recent floods in several major NN communities will need assistance through this program. The USACE will soon be visiting the community of Crownpoint, NM to begin assessing the options to address the flooding.

Section 203 refers to a section of the *Water Resources Development Act of 2000*¹¹ called the Tribal Partnership Program authorizes the USACE to assist Indian tribes with a flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources, watershed assessments and planning activities and other water projects. The NN supports full funding of the USACE Tribal Partnership Program. In addition, to the full funding the NN has submitted to the House Natural Resources Subcommittee on Indian, Insular, and Alaska Native Affairs and the Senate Committee on Indian Affairs and the Senate Environmental and Public Works Committee a list of seven water projects

¹⁰ 33 U.S.C. 701s.

¹¹ P.L.106-541.

specifically for NN that need over \$4 million of funding. The NN requests \$2 million in appropriations for the USACE Tribal Partnership Program to address the dire need for infrastructure and watershed planning. The NN has provided funding to match this program for a watershed planning project in the southwestern portion of the NN.

The NN requests full funding of the USACE Flood Plan Management Service Program¹², the Response and Contingency Operations program¹³, and Planning Assistance to States.¹⁴ The USACE has been diligently working with the NN to delineate floodplains for several communities on the NN for the last several years through this program. These floodplain delineations are critical to expend federal funds for housing and other developments that support economic growth. The NN requests \$2 million be annually appropriated to this authority to continue this work.

The NN request funding of Section 520 of the *Water Resource Development Act* for NN floodplain mapping. Section 520 was authorized specifically for the NN and requires a 75 percent cost share from the United States. There are currently unspent NN funds tied to this authority that the USACE cannot spend without additional appropriations. The NN requests that \$500,000 be appropriated into this authority to match the NN funds.

USACE Mine Funding. There are a large number of abandoned mines on the NN, many of which are uranium mines that were not properly decommissioned. This has caused a huge health crisis on the NN. The NN seeks federal funding to assist in operation to remove hot uranium left over from mining to improve the health on the NN. The NN requests that the USACE receive federal funding to be used for the Remediation of Abandoned Mine Sites ongoing database development and analysis addressing multiple abandoned mines across NN. The NN receives \$500,000 with no cost share requirements. If the USACE were to receive a larger appropriation that would mean expanded assistance.

¹² Section 206 *Flood Control Act of 1960*, P.L. 86-645.

¹³ P.L. 84-99, 33 U.S.C. 701n.

¹⁴ Section 206 *Water Resources Development Act of 1974*, P.L. 106-541.

